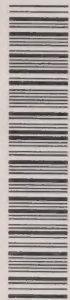


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Ontario

ENVIRONMENTAL ASSESSMENT BOARD

VOLUME: 406

DATE: Wednesday, November 4, 1992

BEFORE:

A. KOVEN Chairman

E. MARTEL Member

FOR HEARING UPDATES CALL (COLLECT CALLS ACCEPTED) (416)963-1249

FARR
ASSOCIATES &
REPORTING INC.

(416) 482-3277

100 Yonge St., Suite 709, Toronto, Canada M4P 1E4



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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental
Assessment for Timber Management on Crown
Lands in Ontario;

- and -

IN THE MATTER of a Notice by The Honourable
Jim Bradley, Minister of the Environment,
requiring the Environmental Assessment
Board to hold a hearing with respect to a
Class Environmental Assessment (No.
NR-AA-30) of an undertaking by the Ministry
of Natural Resources for the activity of
Timber Management on Crown Lands in
Ontario.

Hearing held at the Civic Square,
Council Chambers, 200 Brady Street,
Sudbury, Ontario on Wednesday, November
4, 1992, commencing at 9:00 a.m.

VOLUME 406

BEFORE:

MRS. ANNE KOVEN
MR. ELIE MARTEL

Chairman
Member



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I N D E X O F P R O C E E D I N G S

ARGUMENT

Page No.

CURTIS)

69423-69426

EBBS)

69426-69439

1 ---Upon commencing at 9:00 a.m.

2 MADAM CHAIR: Good morning, gentlemen.
3 Welcome to the timber management hearing again.

4 Mr. Martel and I are prepared to hear
5 your final argument today.

6 MR. CURTIS: Thank you very much, Madam
7 Chair, Mr. Martel.

8 ARGUMENT BY MESSRS. CURTIS and EBBS:

9 It is once again a pleasure to be here
10 and I do trust that it will be the last time that we
11 will be appearing before you until the next time we do
12 this sort of exercise.

13 We are going to do things a little bit
14 differently this morning. I will begin with a few
15 opening comments and then to give you a break from
16 hearing from legal types I would like to pass the ball
17 to Mr. Ebbs who will carry the substance of what we
18 have to say to you today.

19 We did distribute copies of our final
20 argument submitted on September 15th and also the draft
21 terms and conditions from March 26, 1992 which remain
22 unchanged since then. We won't be referring to them
23 directly, but in the event that you want to refer to
24 them you will have them before you.

25 In some of the material that we received

1 from the Board you had mentioned the need to submit a
2 summary of what we intend to say today, less than 10
3 pages. I just wanted to note that our entire written
4 argument is less than 10 pages and we have a summary
5 page on that of one page in length, so we felt that
6 that would suffice. We worked very hard to make it
7 that short and we thought it captured everything that
8 we really want to convey to you.

9 On the summary page our argument is
10 categorized into three categories: RPF involvement -
11 by RPF I mean registered professional forester -
12 involvement in timber management activities and
13 professional discretion and the certification of timber
14 management plans.

15 The majority of our terms and conditions
16 under the first category of RPF involvement in forest
17 management relate to RPF involvement in assessment and
18 reporting of forest management activities; for example,
19 inventory design and implementation and monitoring.

20 So it might help to keep those three
21 categories in mind for the comments that John Ebbs will
22 be stating.

23 In this hearing the OPFA has been a
24 full-time party, although our involvement has not been
25 full time. We have chosen our interventions carefully

1 according to our resources and the points of interest
2 that we have had. We have taken part right from the
3 beginning, from the opening of the hearings, we took
4 part in negotiations of the terms and conditions, we
5 cross-examined Dr. Baskerville, we presented direct
6 evidence and now we are in the final argument phase.

7 In the OPFA evidence that you heard on
8 May the 1st, 1991 we presented evidence on the nature
9 of the OPFA as a self-regulatory professional body and
10 on the role of professional foresters in the area of
11 the undertaking and on the need for professional
12 discretion.

13 Most importantly, we focused on the role
14 of the OPFA in regulating the standards of forestry
15 practice of RPFs and this we stated then was a very
16 different role than any other parties that you have had
17 before you.

18 We are taking the approach as being an
19 independent, objective third-party organization not
20 directly involved in the activities that you are
21 dealing with, but one step removed in terms of being
22 the kind of regulatory body for the individuals that
23 are directly involved in the process.

24 Our purpose is to provide for the
25 profession accountability of registered professional

1 foresters.

2 The evidence of Mr. Brown and Mr. Ebbs on
3 May 1st, 1991 outlined the need for RPFs to be involved
4 in key points in the management process and the reason
5 for requiring RPF involvement is simply that the role
6 of the OPFA as a regulatory body in providing an
7 additional level of accountability can only be
8 exercised through RPFs.

9 We view this as an extremely important
10 role in the entire process to ensure that RPFs practise
11 forestry according to high standards, and it is our
12 view that this role can assist all the parties involved
13 in forest management by providing this additional level
14 of accountability beyond that which they themselves can
15 provide. We hope that this will make the job easier
16 for all people involved in forest management.

17 With those comments I would like to pass
18 the ball to Mr. Ebbs.

19 MR. EBBS: Thank you, David. I must say
20 that it is a pleasure to be able to respond to the
21 invitation 18 months ago to come and visit Sudbury.

22 What I am going to say I know will be
23 very brief. You certainly have from Mr. Curtis and, as
24 he said, from our earlier presentations and submissions
25 I think a good overview of where we believe that we are

1 coming from. Certainly we cannot let this opportunity
2 go by without emphasizing some of the points and in
3 particular those which have come up in several of the
4 other parties' final argument we feel we must respond
5 to.

6 Through the hearings, by my estimation,
7 you have heard from more than 50 registered
8 professional foresters, starting off with Ken Armson,
9 right through to, in case you did not realize it, David
10 Curtis not only went to law school, he is a registered
11 professional forester both in Ontario and in New
12 Brunswick. So he not only speaks well, but he speaks
13 from knowledge and conviction.

14 We also have with us this morning Brian
15 Nicks who is a councillor, a member of our Board of
16 Directors of the Association, in the unlikely
17 possibility that we run into any technical difficulties
18 of a forestry nature. Brian is a forester from
19 Espanola.

20 Much has been said and indeed a great
21 deal more implied about accountability in forest
22 management and its results. Responsibility for those
23 results I think are the essence of this hearing and
24 that is your task, is to ensure that the appropriate
25 results are achieved.

1 But who actually is responsible?

2 Throughout terms and conditions it is said the Ministry
3 of Natural Resources is responsible, in other
4 circumstances in a real sense it is probably the
5 employer. We believe, however, that such
6 responsibility can only go so far. There will be on
7 the ground situations that will require modifications
8 that I wish to address to a certain extent here this
9 morning.

10 A very simplistic example would be a
11 minimum setback around a water course. Minimums are
12 fine, but surely there will be situations, as you have
13 heard, where that minimum is not adequate.

14 Do you want decision makers on the ground
15 who will just follow the rules that are set down or do
16 you want decision makers who come to their jobs with
17 the knowledge and experience to recognize when the
18 minimums are not sufficient.

19 Given the ethics and commitment to
20 standards of practice that are inherent in a
21 self-regulating profession, professional foresters can
22 and should be held accountable for the results they
23 produce not just the rules set out for them by their
24 employers or the landowners. Certainly Dr. Baskerville
25 and many others made this very clear to you.

1 As Bill Brown and I explained during our
2 testimony a year and a half ago, the OPFA was
3 established in 1957 with the objectives to promote and
4 increase the knowledge, skill and proficiency of its
5 members in all things relating to forestry and, most
6 importantly, to regulate the standards of practice of
7 its members.

8 It is this regulatory role which is not
9 only central to the Association, but it brings, we
10 believe, to forest management accountability beyond
11 that that can be set down by the employers or requested
12 by the landowners.

13 Early this year you asked us through the
14 Ministry of Natural Resources how we were progressing
15 on our formalization of standards of practice. In my
16 April reply to that question, No. 188, I informed you
17 that Ken Armson had been appointed chairman of our
18 Principles of Standards and Practice committee.

19 I would like to report the committee
20 worked very hard through the summer and in this fall
21 and with input from many registered professional
22 foresters across the province they did produce their
23 first draft of the OPFA Principles of Standards and
24 Practice. It was sent to all members on October the
25 20th and it is now being discussed with ten regional

1 members meetings preparatory to requesting input from
2 outside the profession. So we are moving along on
3 there.

4 The philosophy and theory of
5 self-regulation, accountability of a professional body
6 and professional standards of practice that Mr. Brown
7 and I espoused to you on May 1st, 1991 is coming very
8 close to reality, we feel.

9 We have noted with satisfaction that the
10 Ministry of Natural Resources and all the other parties
11 agree that RPFs were essential not only in the
12 preparation and certification of management plans,
13 which has been the habit in the past, but also for the
14 certification of amendments and contingency plans and
15 the preparation of silvicultural ground rules.

16 Should you agree that RPFs can benefit
17 forest management by requiring more of their
18 involvement in timber management planning, as suggested
19 by our additions to the Ministry's terms and
20 conditions, we know that the effectiveness of forest
21 resource inventories, various reviews, audits, reports
22 and manuals will be assured. Our written argument
23 covers our rationale on this subject in some detail.

24 As Dr. Baskerville told you during his
25 testimony, no other profession involved in the forest

1 management process is trained as broadly in managing
2 the forest system. As a system from the basic
3 biological processes through to the long-term results
4 of forest manipulation decisions, the basic training of
5 the foresters has given them these unique capabilities.

6 I hope you have recognized that, although
7 we believe that, we also recognize the need to have
8 other specialized professionals involved in the
9 decision-making process as well. Those who have
10 concentrated their training and experience in fish and
11 wildlife biology, pathology, recreation and sociology,
12 to name a few that you have been faced with, are
13 critical in determining the nature of forest cover
14 required for uses involving their area of expertise.

15 These others are important, but only
16 foresters have the training and experience to plan and
17 carry out the actual manipulation necessary to achieve
18 the desired forest cover.

19 These same skills are required in the
20 measurement of the results of forest management. How
21 can anyone adequately measure or audit the results of
22 forest management activities if they do not have the
23 knowledge of the dynamics of the activities which
24 created the situation in the first place.

25 One thing that I trust has been evident

1 to you as you have heard from foresters such as Ken
2 Armson, Herb Bax, Peter Murray, Peter Hynard, Crandall
3 Benson, David Gordon, Bill Brown is that all of us
4 share a common experience in learning within the
5 profession.

6 There may not be many foresters in this
7 province compared to with other professions, such as
8 law, but they are close as a group probably as a result
9 of that.

10 The credentials of the 50 or so that you
11 have heard from would show that most, if not all of
12 them, have shared their careers in the field, they have
13 served as apprentices, you might say, working under
14 more experienced foresters. They started out there on
15 the ground, they have that background.

16 We sometimes refer to those that are
17 actually working in the field as dirt foresters because
18 that's where they are and that's where most of us have
19 come from.

20 As their experience increased, they share
21 this knowledge with other fellows. Those that you have
22 met in these hearings have got to their positions by
23 virtue of that experience. Not necessarily by degrees,
24 not by right writing books, not by being public in
25 their opinions, but by the experience that they have

1 had on the ground and shared with other foresters with
2 similar backgrounds. This is an identifiable aspect of
3 our profession, we believe.

4 Some concern was expressed by you, Mr.
5 Martel, in our May testimony that the Code of Ethics
6 and Standards of Practice are not enforceable on
7 foresters who choose not to belong to the Association.

8 The fact that a third of the professional
9 foresters in Ontario do not belong should be of concern
10 to us all. I believe, though, that it is reasonable to
11 expect that those non-members, as well as their
12 employers, will recognize the benefits of membership
13 and that the RPF designation will be the key indicator
14 of responsible, accountable forestry professionals.

15 However, yes, we still do recognize that
16 the effect of our establishment and enforcement of our
17 standards of professional practice will be diminished
18 when all foresters are not subject to them and when
19 foresters are making decisions on forest management who
20 are not subject to them.

21 You asked also during our testimony what
22 I believe was the feeling of professional foresters
23 towards these hearings. At that time I believe that I
24 remarked on how we saw it as an opportunity to educate
25 the public, how it was an opportunity to communicate

1 among ourselves, perhaps as never before.

2 As it draws close to an end and as the
3 terms and conditions submitted by various parties
4 increase in their size and complexity foresters are
5 expressing some concern that the number of rules that
6 might be applied to them is going to restrict what they
7 are able to do. I am sure some have remarked to you
8 already the amount of time that they spend in their
9 office.

10 Should some of the more restrictive terms
11 and conditions be applied, we really believe that this
12 will be a constraint on the ability of professional
13 foresters to practice.

14 I am reminded really by one of Charlton
15 Heston's lines in an epic movie which was "let my
16 people go." Not looking for total freedom, but
17 nonetheless believing that guidelines are appropriate,
18 rules and oppressive regulations are not for inherent
19 in professions is the ability to use discretion.

20 Many witnesses have explained this in
21 relation to the application of particular silvicultural
22 treatments. I was pleased to see that the Ministry of
23 Natural Resources in their argument in Volume I,
24 starting at large number 318, gave a broad overview of
25 the Forests for Tomorrow witnesses who indicated and

1 strengthened, we believe, the testimony you have heard
2 all along, that there should be professional
3 on-the-ground discretion.

4 Also, we know that the wider the
5 available number of tools and techniques the more
6 likely we will be to achieve the desired effects. It
7 is only reasonable, we think, but also, the wider the
8 range will be of possible uses of the forest land.

9 When silvicultural options are
10 diminished, so will be the possible objectives in the
11 timber management planning exercise.

12 If unreasonable restrictions are placed
13 upon use of artificial regeneration, for example, then
14 the options right up front in terms of whether or not
15 that area can be harvested and in what fashion are
16 going to be limited.

17 I really see this as being against the
18 essence of what these hearings have been about. I
19 don't think it was anyone's intention to limit the
20 possible uses of our forest land.

21 While professional foresters are bound,
22 and indeed it is in our proposed standards of practice,
23 are bound to respect the wishes of the landowners as to
24 the nature of the management they wish to have applied,
25 professional foresters are also obligated to explain

1 the consequences, good and bad, of choosing any
2 particular alternatives.

3 These hearings have certainly heard a lot
4 of opinions about the results of particular activities
5 that have happened in the past. However, limiting the
6 silvicultural options for foresters will not by itself
7 lessen the incidents of undesirable results. Limiting
8 their option will definitely limit our utilization of
9 our forest lands.

10 I am sure there have been many instances
11 over the past four and a half years when the Board has
12 wished that a party would drop a point in their
13 presentation and they are told they have missed it
14 entirely.

15 I was saddened to see Forests for
16 Tomorrow's final argument in which they, once again,
17 asserted that the majority of professional foresters do
18 not support the use of chemical pesticides.

19 As you will recall, at an annual meeting
20 several years ago of the Professional Foresters
21 Association the members present voted against
22 resolution that they didn't like.

23 In Forests for Tomorrow's final argument,
24 however, they neglected to include or even mention
25 Exhibit No. 1198 which they filed. This was a letter

1 from Nick Saltarelli, the resolution chairman at that
2 infamous meeting, to George Stanclik, who I believe was
3 a witness discussing pesticides before you at that
4 time.

5 In Exhibit 1198 Mr. Saltarelli explained,
6 and I quote:

7 "The relevance of what was being moved
8 was obscured by the resolution's
9 inarticulate and somewhat incoherent
10 rationale. Perhaps more importantly, the
11 resolution appeared to be distinctly
12 biased towards achieving a single option
13 rather than an array of treatment
14 alternatives."

15 In hindsight I am sure all of us that
16 were at that meeting had wished that we had taken the
17 time to create another pesticides resolution that would
18 have been acceptable to the members present.

19 Professional foresters are committed to
20 exploring the possible alternatives which will produce
21 the desired results with explicit regard to the
22 ecological processes taking place.

23 To maintain the fewer than 100 foresters
24 at the meeting, democratically deciding not to accept a
25 badly worded resolution, means that the majority of

1 professional foresters voted against chemical
2 pesticides is not simplistic, it is a gross
3 exaggeration.

4 I hope that the Board appreciates the
5 advantages in forest management and of the citizens of
6 Ontario of having registered professional foresters at
7 the key points in the forest management system. Those
8 points where manipulation of the forest cover is being
9 actually being determined, assessed and reported.

10 Standards of qualifications and
11 profession practice, along with a true accountability
12 for their actions, can be assured in our resource
13 managers if this continuity is continued.

14 Your acceptance of the Professional
15 Foresters Association terms and conditions and the
16 ability of the professional association to enforce its
17 standards of practice has simplified the task of
18 creating and enforcing the standards of practice,
19 immeasurably we believe.

20 We really think that acceptance of our
21 terms and conditions will make the standards of
22 practice and their enforcement a reality. They will
23 become further entrenched in our system.

24 On behalf of Mr. Curtis and members of
25 the Association I would like to thank you for giving us

1 the time here today. That's all that I have to say.

2 If you have any questions, I would be
3 more than pleased to answer them.

4 MADAM CHAIR: No, we don't have any
5 questions, Mr. Ebbs.

6 We appreciate very much that you and Mr.
7 Curtis and Mr. Nicks, nice to see you again, could come
8 today and give us your final argument.

9 Thank you very much.

10 MR. EBBS: Thank you.

11 ---Whereupon the hearing was adjourned at 9:30 a.m., to
12 be reconvened on Thursday, November 5, 1992
13 commencing at 9:00 a.m.

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